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इस भाग में विभिन्न पृष्ठ संलग्न वी जाती हैं जिससे विक यह अलग संकलन के स्थान में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 25th January, 1980:—

BILL NO. 5 OF 1980

A Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951, to provide for the readjustment of assembly constituencies in the State of Sikkim.

Be it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1980.

(2) It shall be deemed to have come into force on the 1st day of September, 1979.

2. In section 7 of the Representation of the People Act, 1950,—

(a) in sub-section (1), for the words "The total number of seats", the words, brackets, figure and letter "Subject to the provisions of sub-section (1A), the total number of seats" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

'(1A) Notwithstanding anything contained in sub-section (1), the total number of seats in the Legislative Assembly of the State of Sikkim, to be constituted at any time after the commencement of the Representation of the People (Amendment)

Short title and commencement.

Amendment of section 7 of Act 43 of 1950.

Act, 1980, to be filled by persons chosen by direct election from assembly constituencies shall be thirty-two, of which—

(a) twelve seats shall be reserved for Sikkimese of Bhutia-Lepcha origin;

(b) two seats shall be reserved for the Scheduled Castes of that State; and

(c) one seat shall be reserved for the Sanghas referred to in section 25A.

Explanation.—In this sub-section “Bhutia” includes Chumbipa, Dophapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa and Yolmo.:

(c) in sub-section (2), for the words, brackets and figure “in sub-section (1)”, the words, brackets, figures and letter “in sub-section (1) or sub-section (1A)” shall be substituted;

(d) in sub-section (3),—

(i) for the words, brackets, figures and letter “Subject to the provisions of sub-section (3) of section 7A, the extent of each assembly constituency in all the States and Union territories except the assembly constituencies”, the words “The extent of each assembly constituency in all the States and Union territories except the assembly constituencies in the State of Sikkim and” shall be substituted;

(ii) after the words and figures “the Delimitation Act, 1972”, the following shall be inserted, namely:—

76 of 1972.

“; the extent of each assembly constituency in the State of Sikkim shall be as provided for in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, as amended by section 4 of the Representation of the People (Amendment) Act, 1980”.

Amend-
ment of
section
5A of
Act 43 of
1951.

3. In the Representation of the People Act, 1951, section 5A shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

‘(2) Notwithstanding anything contained in section 5, a person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of the State of Sikkim, to be constituted at any time after the commencement of the Representation of the People (Amendment) Act, 1980, unless—

(a) in the case of a seat reserved for Sikkimese of Bhutia-Lepcha origin, he is a person either of Bhutia or Lepcha origin and is an elector for any assembly constituency in the State other than the constituency reserved for the Sanghas;

(b) in the case of a seat reserved for the Scheduled Castes, he is a member of any of those castes in the State of Sikkim and is an elector for any assembly constituency in the State;

(c) in the case of a seat reserved for Sanghas, he is an elector of the Sangha constituency; and

(d) in the case of any other seat, he is an elector for any assembly constituency in the State.

Explanation.—In this sub-section “Bhutia” includes Chumbipa, Dophapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa and Yolmo.’.

4 The Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall stand amended as directed in the Schedule.

Amendment of Delimitation of Parliamentary and Assembly Constituencies Order, 1976.

THE SCHEDULE

(See section 4)

AMENDMENTS TO THE DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDER, 1976

In the Delimitation of Parliamentary and Assembly Constituencies Order, 1976—

(i) in paragraph 5—

(a) for the words “and where such name”, the words “where such name” shall be substituted;

(b) after the words “Scheduled Tribes”, the words, brackets and letters ‘; and where such name is distinguished by the brackets and letters “(BL)”, the seat in that constituency is reserved for the Sikkimese of Bhutia-Lepcha origin’ shall be inserted;

(c) the following *Explanation* shall be inserted at the end, namely:—

Explanation.—In this paragraph, “Bhutia” includes Chumbipa, Dophapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa and Yolmo.’;

(ii) in Schedule II,—

(a) for entry 18, the following entry shall be substituted, namely:—

“18. Sikkim 32* 2 12

(Reserved for Sikkimese of Bhutia†-Lepcha origin);

(b) in the Note at the end, for the words and figure “*Includes 1 seat reserved for Sangha constituency”, the following shall be substituted, namely:—

“*Includes 1 seat reserved for Sangha constituency.

†Includes Chumbipa, Dophapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa and Yolmo.”;

(iii) after Schedule XIX, the following Schedule shall be inserted, namely:—

"SCHEDULE XIX-A
SIKKIM

ASSEMBLY CONSTITUENCIES

Serial no., name and extent of constituency

1. **Yoksam**.—Yoksam, Lawing, Dubdi, Gerethang, Ketchopheri, Chojo, Thingling I and Thingling II blocks in Ketchopheri elakha; Chumbung, Nako, Singeng, Singdarang, Darap, Nambo, Topong and Singrapong blocks in Pemoyongtse elakha; and Tingbrom, Singlitalam, Melli and Melli-Aching blocks in Melli elakha of West district.
2. **Tashiding (BL)**.—Dhupidara, Narkhola, Mangnam, Labdang, Kongri, Gangep, Chungrang, Arithang, Lasso, Tashiding, Yangtey, Onglep and Bhaluthang blocks in Tashiding elakha of West district.
3. **Geyzing**.—Omchung, Geyzing, Kyongsa, Lungjik and Pemoyongtse blocks in Pemoyongtse elakha; Tikjek, Sardong and Lingchom blocks in Sangacholing elakha; and Yangthang block in Yangthang elakha of West district; and Lekship block in Wak-Sosing elakha of South district.
4. **Dentam**.—Liching, Begha, Srinagi, Gyaten, Karmatar, Sopakha, Maneybong, Mangmoo, Dentam, Sapung, Bongten Radhukundu and Sankhu blocks in Yangthang elakha of West district.
5. **Barmiok**.—Hee, Martam, Barmiok, Barthang, Hee Patal and Pacharek blocks in Yangthang elakha; and Miyong, Megyong, Chinthang and Barfok blocks in Rinchenpong elakha of West district.
6. **Rinchenpong (BL)**.—Sangdorji, Hathidunga, Jeel, Boom, Reshi (A), Reshi (B), Rinchenpong, Tadong, Samdong, Sribadam (A) and Sribadam (B) blocks in Rinchenpong elakha; and Takuthang, Chuchen, Dethang and Parengaon blocks in Chakung elakha of West district; and Sangnath block in Wak-Sosing elakha of South district.
7. **Chakung**.—Tinjerbong, Suldong, Kamling, Singyeng, Mabong, Suntoley, Khani Sirbong, Arubotey, Samsing, Gelling, Chakung, Mendogaon, Samdong and Chumbung blocks in Chakung elakha of West district.
8. **Soreong**.—Soreong, Soreong Bazar, Singling, Timberbong, Burikhop, Kartok, Malbasey and Tarpu blocks in Chakung elakha of West district.
9. **Daramdin**.—Rumbuk, Burikhop, Lower Daramdin, Lower Thambung, Upper Thambung, Sallyng Dang, Lungchok, Siktam, Tikpur, Okhrey, Ribdi and Bhareng blocks in Daramdin elakha of West district.
10. **Jorethang-Nayabazar**.—Joom block in Chakung elakha of West district; Salghari, Dorop, Dhargaon, Chisopani, Tinek, Poklok-Denchung, Asangthang, Sambung, Kopche and Mik-Khola blocks in Namchi elakha; and Shyampani, Sorok, Manpur, Kitam and Gom blocks in Kitam elakha of South district.

Serial no., name and extent of constituency

11. Ralang (BL).—Sada, Famtam, Brang and Polot blocks in Brang elakha; Namlung, Lingding, Ralang, Jorang-Biring, Barfong and Dethang blocks in Ralang elakha; and Bakhim, Kewzing, Dalep and Lingzo blocks in Wak-Sosing elakha of South district.

12. Wak.—Hingdam, Lamaten, Tingmo, Tinkitam, Omchu, Chumlok, Wak, Rayong and Mangbrue blocks in Wak-Sosing elakha; Ben, Namphrik, Rabang and Sangmo blocks in Ben-Namphrik elakha; and Deo block in Temi-Tarku elakha of South district.

13. Damthang.—Damthang, Jaubari, Chemchey, Pabong, Boomtar, Sal-lybung, Maniram, Phallidara, Tingrithang, Mamley, Gumba, Pajer, Tinjir, Kamrang and Singithang blocks in Namchi elakha; and Singtam, Bul, Palum and Rong blocks in Turuk-Sumbuk elakha of South district.

14. Melli.—Melli Bazar, Melli Dara, Kerabari, Suntoley, Sukhbari, Turuk, Rambung, Panchgharey, Lungchok, Kamarey, Sumbuk, Kartikey, Suntoley (Sumbuk), Paiyong, Rabitar and Sadam blocks in Turuk-Sumbuk elakha of South district.

15. Rateypani-West Pendam (SC).—Rabikholo, Tangji, Bigmat, Rateypani and Passi blocks in Rateypani elakha; Kating-Bokran, Pamphok, Nalam Kolbung, Nagi, Palitam, Maneydara, Kabrey, Kanamtek, Turung, Donok and Mamring blocks in Namthang elakha of South district; and West Pendam block in Namthang elakha of East district.

16. Temi-Tarku.—Tanak, Tarku, Temi and Aifaltar blocks in Temi-Tarku elakha; Pabong, Daring, Todey, Reshep, Tokel, Namphing, Barmiok, Thangsing, Chalamthang, Nizarmeng, Rameng and Burul blocks in Barmiok elakha; and Parbing, Fong, Chhuba and Karek blocks in Namthang elakha of South district.

17. Central Pendam-East Pendam.—Singtam Bazar, Sumin, Lingjey and Mangthang blocks in Sumin elakha; and Central Pendam, East Pendam, Rangpo Bazar, Kamerey-Bhasmey, Pachak and Sajong blocks in Pendam elakha of East district.

18. Rhenock.—Rhenock, Tarpin, Rhenock Bazar, Mulukey, Sudanglakha and Kyongsa blocks in Rhenock elakha; Biring, Tarethang and Taja blocks in Amba-Tarethang elakha; and Linkey block in Pathing elakha of East district.

19. Regu.—Aritar, Dalapchand and Khamdong blocks in Rhenock elakha; and Chuzachen, Change Lakha, North Regu, South Regu, Rongli Bazar, Singanebas, Premlakha and Subhaney Dara blocks in Chuzachen-Regu elakha of East district.

20. Pathing (BL).—Changay Senti and Pachey-Samsing blocks in Changay-Senti elakha; Amba and Thekabung blocks in Amba-Tarethang elakha; Parkha, Riba, Machong, Latuk and Chuchenphery blocks in Chota and Bara Pathing elakha; and Rolep Lamaten, Lingtam, Phadamchen and Gnathang blocks in Chuzachen-Regu elakha of East district.

Serial no., name and extent of constituency

21. Loesing Pachekhani.—Chota Singtam and Aho-Yangtam blocks in Aho-Pahm-Yangtam elakha; and Namchebung, Kartok, Dikling, Chalamthang, Loesing, Pachekhani, Dikling Pachekhani, Bengthang and Pakyong Bazar blocks in Pakyong elakha of East district.

22. Khamdong (SC).—Manzing, Tokdey, Nchbrom, Kolthang, Pepthang and Lingmo blocks in Lingmo-Nehbrom elakha; Rangang, Yangang, Gagyong, Satam, Namphok and Sripatam blocks in Yangang elakha of South district; and Singbel, Dungdung, Khamdong, Beng, Thangsing-Bodang and Thasa blocks in Khamdong elakha of East district.

23. Djongu (BL).—Upper Djongu and Lower Djongu blocks in Djongu elakha of North district; and Sokpey, Lingi, Upper Paiyong, Lower Paiyong and Kahu blocks in Lingi-Paiyong elakha of South district.

24. Lachen Mangshila (BL).—Lachen block in Lachen elakha; Lachung block in Lachung elakha; Chungthang block in Chungthang elakha; Naganamgor, Singchit, Tung, Miyong, Sentam, Pakshew, Kajor, Singchik Ringem, Jimchung, Nampatam and Mangan Bazar blocks in Malling elakha; and Sayem, Tanyek, Ramthang, Upper Mangshila, Lower Mangshila, Namok and Thingchen blocks in Phodong elakha of North district.

25. Kabi Tingda (BL).—Rongong, Tumlung and Phodong blocks in Phodong elakha; Phensang, Labi, Phamtam, Chawang, Men Rongong, Kabi-Tingda and Phancy blocks in Phensang-Kabi-Tingda elakha of North district; and Sotak, Nabey and Penlong blocks in Penlong elakha; and Lingdok and Nampung blocks in Rakdong-Tintek elakha of East district.

26. Rakdong-Tintek (BL).—Rakdong and Tintek blocks in Rakdong-Tintek elakha; Samdong-Kambol and Raley-Khase blocks in Samdong elakha; Tumin, Simik and Chandey blocks in Tumin-Chandey elakha; and Patuk, Simik, Aritir and Lingjey blocks in Khamdong elakha of East district.

27. Martam (BL).—Sirwani, Sakyong, Chisopani, Rabdang, Chalamthang, Byang, Nagethang, Martam, Phegyong, Nazitam and Trikutam blocks in Song-Martam elakha; and Chhuba, Nemli, Marchak, Samlik, Namin and Tumlabung blocks in Rumtek-Marchak elakha of East district.

28. Rumtek (BL).—Mendu, Tempyek, Sajong, Chenjey, Rawte Rumtek, Reybrok and Lingdum blocks in Ranka-Lingdum elakha; and Tadong, Samdur, Deorali, Deorali Bazar and Tadong Bazar blocks in Tadong elakha of East district.

29. Assam-Lingjey (BL).—Pahm, Bhusuk, Namok, Naitam, Nandok, Lingjey and Assam blocks in Aho-Lingjey-Pahm-Singtam elakha; and Tathangchen, Rongnek and Syari blocks in Tathangchen elakha of East district.

30. Ranka (BL).—Parbing, Ranka, Barbing, Songtong, Bortuk, Luwing, Suchakgang and Chandmari blocks in Ranka elakha of East district.

Serial no., name and extent of constituency

31. Gangtok.—Gangtok block [including (a) Gangtok Town, (b) Gangtok Bazar and (c) Development Area] of East district.

Note:—Any reference in this Table to a district, elakha, block or other territorial division shall be taken to mean the area comprised within that district, elakha, block or other territorial division on the 26th day of April, 1975.”.

7 of 1979. 5. (1) The Representation of the People (Amendment) Ordinance, 1979, is hereby repealed.

Repeal
and
saving.

43 of 1950. (2) Notwithstanding such repeal, anything done or any action taken under the Representation of the People Act, 1950, the Representation of the People Act, 1951 or the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, as amended by the said Ordinance, shall be deemed to have been done or taken under the Representation of the People Act, 1950, the Representation of the People Act, 1951 or the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, as amended by this Act.

43 of 1951.

STATEMENT OF OBJECTS AND REASONS

The Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 comprised of 32 members. All the seats in this Assembly were reserved—15 each for Sikkimese of Bhutia-Lepcha origin and Sikkimese of Nepali origin and one each for Scheduled Castes and for Sanghas belonging to Monasteries. The Constitution (Thirty-fifth Amendment) Act, 1975 by which Sikkim became a State of India, inserted in the Constitution a special article—article 371F—with respect to Sikkim for deeming this Assembly to be the first Legislative Assembly of the State of Sikkim under the Constitution, and for making other special provisions with respect to the State. Clause (f) of the said article 371F enabled Parliament to make, for the purpose of protecting the rights and interests of different sections of the population of Sikkim, provision for the number of seats in the Legislative Assembly of the State which may be filled by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates belonging to such sections alone may stand for election to the Legislative Assembly of the State.

2. With a view to facilitating the holding of a General Election for the purpose of constituting a new Legislative Assembly for the State of Sikkim on the expiration of the duration of the first Legislative Assembly of the State under the Constitution, a Bill entitled "the Representation of the People (Amendment) Bill, 1979" was introduced in the Sixth Lok Sabha on the 18th May, 1979. This Bill sought to make provision for the re-adjustment of the assembly constituencies in the State of Sikkim and for the reservation of seats in the Legislative Assembly. The following passage from the Statement of Objects and Reasons appended to this Bill explains the basis on which reservations were provided for in the Bill:

"Under the existing arrangements, the seats in the Assembly [the Assembly formed in 1974] are reserved for the Nepalese, Bhutias and Lepchas, the Scheduled Castes and the Sanghas belonging to the monasteries. As a result, other residents of Sikkim are not eligible to contest elections to the Assembly. In the circumstances, it has become necessary to modify the existing set up.....so as to ensure a fair representation to all sections of the population of the State in the Assembly. At the same time it is considered that if the Bhutias and Lepchas who are the original inhabitants of Sikkim, are given representation solely according to their population ratio, their interests may not be properly safeguarded. Accordingly, it has been decided that 12 seats.....may be reserved for Bhutias and Lepchas. In addition the reservation of one seat for the Sanghas may be allowed to continue. The Scheduled Castes population in Sikkim is mostly of Nepalese origin. Based on the population, the Scheduled Castes in Sikkim qualify for two seats in the Legislative Assembly.....on the basis of

the reservation proposed, the remaining 17 seats in the Legislative Assembly will be general seats open to all electors.”.

The Bill lapsed on the dissolution of the Sixth Lok Sabha.

3. The first Legislative Assembly of Sikkim was dissolved by the Governor of Sikkim on 13th August, 1979. It, therefore, became urgently necessary to make provision for the delimitation of the assembly constituencies in the State and for the reservation of seats in the Assembly for different sections of the people. Accordingly, an Ordinance on the lines of the Representation of the People (Amendment) Bill, 1979 which lapsed on the dissolution of the Sixth Lok Sabha was promulgated by the President on the 1st September, 1979. On the basis of the provisions of this Ordinance, a General Election for the purpose of constituting a new Legislative Assembly for the State of Sikkim has been held and the new Legislative Assembly has already been duly constituted. It is, therefore, necessary to replace the Ordinance by an Act of Parliament. Hence this Bill.

NEW DELHI;

The 17th January, 1980.

P. SHIV SHANKER.

BILL No. 6 OF 1980

A Bill to provide for detention in certain cases for the purpose of prevention of blackmarketing and maintenance of supplies of commodities essential to the community and for matters connected therewith.

Be it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 5th day of October, 1979.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means, as respects a detention order made by the Central Government or by an officer of the Central Government or a person detained under such order, the Central Government, and as respects a detention order made by a State

Government or by an officer of a State Government or as respects a person detained under such order, the State Government;

(b) "detention order" means an order made under section 3;

(c) "State Government", in relation to a Union territory, means the administrator thereof.

3. (1) The Central Government or a State Government or any officer of the Central Government, not below the rank of a Joint Secretary to that Government specially empowered for the purposes of this section by that Government, or any officer of a State Government, not below the rank of a Secretary to that Government specially empowered for the purposes of this section by that Government, may, if satisfied, with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community it is necessary so to do, make an order directing that such person be detained.

Power to make orders detaining certain persons.

Explanation.—For the purposes of this sub-section, the expression "acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community" means—

10 of 1955. (a) committing or instigating any person to commit any offence punishable under the Essential Commodities Act, 1955, or under any other law for the time being in force relating to the control of the production, supply or distribution of, or trade and commerce in, any commodity essential to the community; or

10 of 1955. (b) dealing in any commodity—

(i) which is an essential commodity as defined in the Essential Commodities Act, 1955, or

(ii) with respect to which provisions have been made in any such other law as is referred to in clause (a),

with a view to making gain in any manner which may directly or indirectly defeat or tend to defeat the provisions of that Act or other law aforesaid.

(2) Any of the following officers, namely:—

(a) district magistrates;

(b) Commissioners of Police, wherever they have been appointed, may also, if satisfied as provided in sub-section (1), exercise the powers conferred by the said sub-section.

(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the State Government:

Provided that where under section 8 the grounds of detention are communicated by the authority making the order after five days but not later than ten days from the date of detention, this sub-section shall apply subject to the modification that for the words "twelve days", the words "fifteen days" shall be substituted.

(4) When any order is made or approved by the State Government under this section or when any order is made under this section by an officer of the State Government not below the rank of Secretary to that Government specially empowered under sub-section (1), the State Government shall, within seven days, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order.

Execution of detention orders.

4. A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973.

2 of 1974.

Power to regulate place and conditions of detention.

5. Every person in respect of whom a detention order has been made shall be liable—

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, whether within the same State or in another State, by order of the appropriate Government:

Provided that no order shall be made by a State Government under clause (b) for the removal of a person from one State to another State except with the consent of the Government of that other State.

Detention orders not to be invalid or inoperative on certain grounds.

6. No detention order shall be invalid or inoperative merely by reason—

(a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or officer making the order, or

(b) that the place of detention of such person is outside the said limits.

7. (1) If appropriate Government has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government may—

(a) make a report in writing of the fact to a Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

2 of 1974.

(b) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

2 of 1974. (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under clause (b) of sub-section (1) shall be cognizable.

8. (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government.

Grounds
of order
of deten-
tion to be
disclosed
to person
affected
by the
order.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

9. (1) **The Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.**

Constitu-
tion of
Advisory
Boards.

(2) The constitution of every such Board shall be in accordance with the recommendations of the Chief Justice of the appropriate High Court.

(3) Every such Board shall consist of a Chairman and not less than two other members, and the Chairman shall be a serving Judge of the appropriate High Court and the other members shall be serving or retired Judges of any High Court.

Explanation.—In this section “appropriate High Court” means—

(a) in the case of the detention of a person in pursuance of an order of detention made by the Central Government or an officer of the Central Government or the administrator of the Union territory of Delhi or an officer subordinate to such administrator, the High Court for the Union territory of Delhi;

(b) in the case of the detention of a person in pursuance of an order of detention made by any State Government (other than the administrator of a Union territory) or an officer of such State Government, the High Court for that State; and

(c) in the case of the detention of a person in pursuance of an order of detention made by the administrator of a Union territory (other than the Union territory of Delhi) or an officer subordinate to such administrator, such High Court as the Central Government may, by order published in the Official Gazette, specify with respect to such Union territory.

Reference
to Advi-
sory
Boards.

10. Save as otherwise expressly provided in this Act, in every case where a detention order has been made under this Act, the appropriate Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer referred to in sub-section (2) of section 3, also the report by such officer under sub-section (3) of that section.

Procedure
of
Advisory
Boards.

11. (1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within seven weeks from the date of detention of the person concerned.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board, and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

Action
upon
the report
of Advi-
sory
Board.

12. (1) In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith.

Maximum
period of
deten-
tion.

13. The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12, shall be six months from the date of detention:

Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time.

Revoca-
tion of
deten-
tion
orders.

14. (1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may, at any time, be revoked or modified—

10 of 1897.

(a) notwithstanding that the order has been made by an officer of a State Government, by that State Government or by the Central Government;

(b) notwithstanding that the order has been made by an officer of the Central Government or by a State Government, by the Central Government.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Central Government or a State Government or an officer, as the case may be, is satisfied that such an order should be made.

15. (1) The appropriate Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

Temporary release of persons detained.

(2) In directing the release of any person under sub-section (1), the appropriate Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

16. No suit or other legal proceeding shall lie against the Central Government or a State Government, and no suit, prosecution or other legal proceeding shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Act.

Protection of action taken in good faith.

10 of 1979.

17. (1) The Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Ordinance, 1979, is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Ordinance, 1979 was promulgated on the 5th October, 1979 to deal effectively with malpractices like blackmarketing, hoarding, profiteering, and to arrest the unjustified rise in prices of essential commodities by providing for the preventive detention of persons likely to indulge in such practices. Although the Essential Commodities Act, 1955 made comprehensive provisions for the regulation of production, supply, distribution, prices and trade and commerce in commodities declared essential under the Act and although the penal provisions in the Act were made more stringent in accordance with the recommendations of the Law Commission in their Forty-seventh Report, it was found not adequate to deal with the situation.

2. The Ordinance recognised preventive detention as a necessary evil and accordingly sought to provide for various safeguards to avoid scope for possible abuse of powers thereunder. The ground on which a person could be detained under the Ordinance was defined specifically. It provided that an order directing the detention of a person could be made thereunder only with a view to preventing such person from acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community and it also defined the expression "acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community". The Ordinance made provisions to ensure that the composition of the Advisory Boards thereunder was in accordance with the amendments proposed to article 22 of the Constitution by section 3 of the Constitution (Forty-fourth Amendment) Act, 1978. It also made the necessary provisions for ensuring, in accordance with the said amendments, that a person is not detained for a period longer than two months without the approval of an Advisory Board. Unlike the earlier laws as to preventive detention, the Ordinance limited the maximum period of detention to six months.

3. The provisions of the Ordinance are useful as a deterrent measure to combat malpractices like blackmarketing, hoarding, and profiteering.

4. The Bill seeks to replace the said Ordinance.

NEW DELHI;

PRANAB MUKHERJEE.

The 18th January, 1980.

FINANCIAL MEMORANDUM

Under clause 5(a) of the Bill, the Central Government has power to regulate the conditions of detention of persons detained in pursuance of an order of the Central Government or an officer of the Central Government. Clause 9(1) of the Bill provides *inter alia* for the constitution of Advisory Boards by the Central Government.

2. An administrative cell consisting of a Joint Secretary and necessary complement of staff has already been created in the Department of Civil Supplies for processing all matters connected with the implementation of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Ordinance. Some expenditure of a recurring nature from out of the Consolidated Fund of India will be involved with respect to the facilities which will have to be provided in accordance with the conditions of detention envisaged by clause 5(a) of the Bill to persons detained in Union territories which do not have their own Consolidated Funds. But the quantum of this expenditure cannot be estimated as that will depend upon the number of persons who may be so detained from time to time. Some expenditure of a recurring nature will have to be incurred in connection with the Advisory Boards also and it is not possible at this stage to make an accurate estimate of the expenditure which may be involved. It is, however, estimated that the recurring expenditure on the administrative cell, the provision of facilities aforementioned and in connection with the Advisory Boards is not likely to exceed Rs. 2.50 lakhs per year. The non-recurring expenditure on account of office equipment of the administrative cell referred to above is not likely to exceed Rs. 0.50 lakhs.

3. The provisions of the Bill do not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5(a) of the Bill provides that every person in respect of whom a detention order has been made shall be liable to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify.

The matters to be specified in such orders are matters of detail and it is not practicable to provide for them in the Bill. The delegation of legislative power is, therefore, of a normal character.

BILL No. 7 OF 1980

A Bill further to amend the Central Excises and Salt Act, 1944, and the Additional Duties of Excise (Goods of Special Importance) Act, 1957.

Be it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Central Excises and Salt and Additional Duties of Excise (Amendment) Act, 1980.

(2) It shall be deemed to have come into force on the 24th day of November, 1979.

Amendment of section 2.

2. In the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act), in section 2, in clause (f), after sub-clause (iv), the following sub-clauses shall be inserted, namely:—

1 of 1944

“(v) in relation to goods comprised in Item No. 19 I of the First Schedule, includes bleaching, mercerising, dyeing, printing, waterproofing, rubberising, shrink-proofing, organdie processing or any other process or any one or more of these processes;

“(vi) in relation to goods comprised in Item No. 21(1) of the First Schedule, includes milling, raising, blowing, tentering, dyeing or any other process or any one or more of these processes;

(vii) in relation to goods comprised in Item No. 22(1) of the First Schedule, includes bleaching, dyeing, printing, shrink-proofing, tentering, heat-setting, crease resistant processing or any other process or any one or more of these processes;".

3. In the Central Excises Act, in the First Schedule,—

(i) in Item No. 19, for sub-item I, the following sub-item shall be substituted, namely:—

“I. Cotton fabrics, other than (i) embroidery in the piece, in strips or in motifs, and (ii) fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials—

(a) cotton fabrics, not subjected to any process Twenty per cent.
ad valorem.

(b) cotton fabrics, subjected to the process of bleaching, mercerising, dyeing, printing, waterproofing, rubberising, shrink-proofing, organdie processing or any other process or any two or more of these processes Twenty per cent.
ad valorem.”;

(ii) in Item No. 21, for sub-item (1), the following sub-item shall be substituted, namely:—

“(1) Woollen fabrics, other than embroidery in the piece, in strips or in motifs—

(a) woollen fabrics, not subjected to any process Twelve per cent.
ad valorem.

(b) woollen fabrics, subjected to the process of milling, raising, blowing, tentering, dyeing or any other process or any two or more of these processes Twelve per cent.
ad valorem.”;

(iii) in Item No. 22, for sub-item (1), the following sub-item shall be substituted, namely:—

“(1) Man-made fabrics, other than

(i) embroidery in the piece, in strips or in motifs, and (ii) fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials—

(a) man-made fabrics, not subjected to any process Twenty per cent.
ad valorem plus.”;
rupees five per square metre.

(b) man-made fabrics, subjected to the process of bleaching, dyeing, printing, shrink-proofing, tentering, heat-setting, crease resistant processing or any other process or any two or more of these processes Twenty per cent.
ad valorem plus
rupees five per square metre.”.

**Amend-
ment of
First
Schedule.**

4. In the Additional Duties of Excise (Goods of Special Importance) Act, 1957, in the First Schedule,—

(i) in Item No. 19, for sub-item I, the following sub-item shall be substituted, namely:—

"I. Cotton fabrics, other than (i) embroidery in the piece, in strips or in motifs, and (ii) fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials—

(b) cotton fabrics, subjected to the process of bleaching, mercerising, dyeing, printing, waterproofing, rubberising, shrink-proofing, organdie processing or any other process or any two or more of these processes

(ii) in Item No. 21, for sub-item (1), the following sub-item shall be substituted, namely:—

"(1) Woollen fabrics, other than embroidery in the piece, in strips or in motifs—

(a) woollen fabrics, not subject- Five per cent.
ed to any process ad valorem.

(iii) in Item No. 22, for sub-item (1), the following sub-item shall be substituted, namely:—

"(1) Man-made fabrics, other than (i) embroidery in the piece, in strips or in motifs, and (ii) fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials—

(a) man-made fabrics, not subjected to any process

(b) man-made fabrics, subjected to the process of bleaching, dyeing, printing, shrink-proofing, tentering, heat-setting, crease resistant processing or any other process or any two or more of these processes

metre. Seven and a half per cent. *ad valorem plus* rupees two per square metre."

5. (1) Every Central Act as in force at any time during the period commencing with the appointed day and ending with the day immediately preceding the date of commencement of this Act, and providing for or relating to the levy of duties of excise on—

(a) "cloth", "cotton cloth" or, as the case may be, "cotton fabrics",

(b) "woollen fabrics",

(c) "rayon or artificial silk fabrics" or, as the case may be, "man-made fabrics",

shall have and shall be deemed to have always had effect during the said period as if—

(i) such "cloth", "cotton cloth" or, as the case may be, "cotton fabrics" comprised for the purposes of the duty leviable under that

(A) a sub-item covering such "cloth", "cotton cloth" or "cotton fabrics" not subjected to any process mentioned in sub-clause (v) of clause (f) of section 2 of the Central Excises Act, as amended by this Act; and

(B) a sub-item covering such "cloth", "cotton cloth" or "cotton fabrics" subjected to any such process or any two or more such processes,

and the rate of duty specified in such Act with respect to such "cloth", "cotton cloth" or "cotton fabrics" had been specified separately with respect to each of the aforementioned sub-items thereof;

(ii) such "woollen fabrics" comprised for the purposes of duty leviable under that Act—

(A) a sub-item covering such "woollen fabrics" not subjected to any process mentioned in sub-clause (vi) of clause (f) of section 2 of the Central Excises Act, as amended by this Act; and

(B) a sub-item covering such "woollen fabrics" subjected to any such process or any two or more such processes,

and the rate of duty specified in such Act with respect to such "woollen fabrics" had been specified separately with respect to each of the aforementioned sub-items thereof;

(iii) such "rayon or artificial silk fabrics" or "man-made fabrics" comprised for the purposes of duty leviable under that Act—

(A) a sub-item covering such "rayon or artificial silk fabrics" or "man-made fabrics" not subjected to any process mentioned in sub-clause (vii) of clause (f) of section 2 of the Central Excises Act, as amended by this Act; and

(B) a sub-item covering such "rayon or artificial silk fabrics" or "man-made fabrics" subjected to any such process or any two or more such processes,

and the rate of duty specified in such Act with respect to such "rayon or artificial silk fabrics" and "man-made fabrics" had been specified separately with respect to each of the aforementioned sub-items thereof; and

Special provisions as to duties of excise on cotton fabrics, woollen fabrics, man-made fabrics, etc., during a certain past period and validation.

(iv) the amendments to clause (f) of section 2 of the Central Excises Act made by section 2 of this Act had been in force at all relevant times subject to the modifications that the reference therein—

(A) to the “goods comprised in Item No. 19 I of the First Schedule” shall be construed as a reference to such “cloth”, “cotton cloth” or, as the case may be, “cotton fabrics”;

(B) to the “goods comprised in Item No. 21(1) of the First Schedule” shall be construed as a reference to “woollen fabrics”;

(C) to the “goods comprised in Item No. 22(1) of the First Schedule” shall be construed as a reference to such “rayon or artificial silk fabrics” or, as the case may be, “man-made fabrics”;

and subject to such further modifications as the context may require.

(2) Any rule or notification or any action or thing made, issued, taken or done or purporting to have been made, issued, taken or done under a Central Act referred to in sub-section (1) before the date of commencement of this Act, with respect to or in relation to the levy of duties of excise on—

(a) “cloth”, “cotton cloth” or, as the case may be, “cotton fabrics”,

(b) “woollen fabrics”,

(c) “rayon or artificial silk fabrics” or, as the case may be, “man-made fabrics”,

shall for all purposes be deemed to be, and to have always been, as validly and effectively made, issued, taken or done as if the provisions of this section had been in force at all material times and, accordingly, notwithstanding any judgment, decree or order of any court, tribunal or other authority—

(a) all duties of excise levied, assessed or collected or purported to have been levied, assessed or collected, before the date of commencement of this Act, on—

(i) “cloth”, “cotton cloth” and “cotton fabrics” subjected to any process,

(ii) “woollen fabrics” subjected to any process,

(iii) “rayon or artificial silk fabrics” and “man-made fabrics” subjected to any process,

under any such Central Act shall be deemed to be, and shall be deemed always to have been, as validly levied, assessed or collected as if the provisions of this section had been in force on and from the appointed day;

(b) no suit or other proceeding shall be maintained or continued in any court for the refund of and no enforcement shall be made by any court of any decree or order directing the refund of, any such duties of excise which have been collected and which would have been validly collected if the provisions of this section had been in force on and from the appointed day;

(c) refunds shall be made of all such duties of excise which have been collected but which would not have been so collected if the provisions of this section had been in force on and from the appointed day; and

(d) recoveries shall be made of all such duties of excise which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, would not have been refunded if the provisions of this section had been in force on and from the appointed day.

(3) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Explanation.—In this section—

(a) “appointed day”, in relation to—

- (i) “cloth”, means the 1st day of January, 1949;
- (ii) “cotton cloth”, means the 28th day of February, 1954;
- (iii) “cotton fabrics”, means the 1st day of March, 1955;
- (iv) “woollen fabrics”, means the 1st day of March, 1955;
- (v) “rayon or artificial silk fabrics”, means the 28th day of February, 1954; and
- (vi) “man-made fabrics”, means the 18th day of June, 1977;

(b) “Central Act” includes any provision, in a Bill introduced in the House of the People, in respect of which a declaration was made under section 3 of the Provisional Collection of Taxes Act, 1931;

(c) “duties of excise” means duties of excise levied under any Central Act whether as such or as additional duties of excise or auxiliary duties of excise or special duties of excise or by any other name.

16 of 1931

6. (1) The Central Excises and Salt and Additional Duties of Excise 12 of 1976 (Amendment) Ordinance, 1979, is hereby repealed.

**Repeal
and
saving.**

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or, taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Central Excise duty was levied for the first time on cotton fabrics in 1949, on man-made fabrics (rayon or artificial silk fabrics) in 1954 and on woollen fabrics in 1955. From the very early stages of the textile tariff, with a view to achieving progression in the rate structure and to aligning excise control with the demands of different producing sectors, duties have been levied not only on grey fabrics but also at the stage of processing such as bleaching, dyeing and printing.

2 In its judgment dated the 24th January, 1979, in the **Real Honest Textiles and others vs. Union of India** (Special Civil Applications No. 1552 etc. of 1978), the Gujarat High Court held that the term "fabric" as used in the tariff description "cotton fabric" would refer to something that was woven; hence it could relate only to cloth in the grey stage; processing of the grey cloth either by bleaching, dyeing or printing did not amount manufacturing and both before and after processing it remained a fabric falling within the same item of Central Excise Tariff (Item 19—cotton fabrics, of the First Schedule to the Central Excises and Salt Act.). The Court arrived at a similar conclusion with respect to man-made fabrics falling under item No. 22 of the same Schedule. The Court observed that processing was an excisable activity covered by the residual tariff item No. 68 of the said Schedule. The Court accordingly ordered refund of the excise duties collected in excess by the Government for a period of three years prior to the institution of the proceedings before the Court alongwith interest at the rate of 12 per cent. per annum.

3. After the pronouncement of the above judgment several writ petitions were filed in various courts agitating the same point. More than 130 cases were filed in the Gujarat High Court alone. The revenue implications of the cases decided by the High Court exceeded Rs. 30 crores.

4. The judgment of the Gujarat High Court had the effect of completely upsetting the arrangement regarding levy of excise duties on textile fabrics which was being followed for several years. The judgment also had the effect of disturbing the balance evolved between different sectors of the textile industry, besides putting large amounts of revenue at stake. In so far as past assessments were concerned, refund of excise duties to manufacturers as ordered by the High Court would have only meant a fortuitous and windfall benefit to such persons without any relief to the ultimate consumers who had purchased the fabrics and had borne the burden of the duties. The same position holds good in the case of woollen fabrics as well.

5. In order to overcome the difficulty which arose as a result of the Judgment of the Gujarat High Court, it was proposed to suitably amend the Central Excises and Salt Act, 1944, and the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and also to validate the

past levies in respect of those fabrics. Accordingly, the Central Excises and Salt and Additional Duties of Excise (Amendment) Bill, 1979 was introduced in the House of the People on the 18th May, 1979. As the House of the People had been dissolved and the Council of States was not in session and the President was satisfied that circumstances existed which rendered it necessary for him to take immediate action to give effect to the provisions of the Bill, the Central Excises and Salt and Additional Duties of Excise (Amendment) Ordinance, 1979 (12 of 1979) was promulgated by the President on the 24th November, 1979.

6. The Bill seeks to replace the provisions of the Ordinance.

NEW DELHI;

R. VENKATARAMAN.

The 16th January, 1980.

Memorandum regarding modification contained in the Bill to replace the Central Excises and Salt and Additional Duties of Excise (Amendment) Ordinance, 1979.

The definition of "appointed day" contained in the *Explanation* to section 5 of the Ordinance has been modified to spell out separately the appointed day with reference to cloth, cotton cloth, cotton fabrics, woollen fabrics, rayon or artificial silk fabrics and man-made fabrics (vide *Explanation* to clause 5 of the Bill). The Bill does not involve any other deviation from the Ordinance.

AVTAR SINGH RIKHY,
Secretary.